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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 18 OF THE CONVENTION

Initial reports of States parties

ARGENTINA

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INITIAL REPORT OF THE ARGENTINE REPUBLIC UNDER ARTICLE 18 OF THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

Part I

Introduction

In order to satisfy the requirements of article 18 of the Convention, the presentation of this document will be in accord with the recommendations and guidelines regarding the form and content of the reports, as suggested by the Committee at its second session and contained in document CEDAW/C/7.

(a) General, economic, social, political and legal framework within which the Argentine State is approaching the problem of the elimination of discrimination against women

(a) 1. General framework. The first point to which attention should be drawn in this connection is the marked contrast that, in the area of human rights, separates or distinguishes the constitutional Government that took office on 10 December 1983 from the previous de facto régime, whose rule extended over a period of almost eight years (24 March 1976 to 10 December 1983) and whose most notorious hallmark was, among other things, its deliberate scorn for fundamental human rights and liberties.

For this reason, and with no intention of entering into a political discussion, it seems appropriate to note that our country has lived through one of the most contrastive and remarkable transitions in modern times. In less than three years of constitutional Government, the Argentine State has ratified five conventions on the protection of human rights. For example, in 1985 the American Convention on Human Rights came into force. Also ratified was the Convention against Apartheid. The geographical reservation to the Convention on the Status of Refugees was lifted, a convention which because of that limitation had been rendered practically inapplicable in the Latin American context. Further, our country recently ratified the International Covenant on Economic, Social and Cultural Rights, as well as the International Covenant on Civil and Political Rights, along with its optional Protocol. Similarly, on 15 July 1985, the Government ratified the Convention on the Elimination of All Forms of Discrimination against Women, with this document coming into force in our country on 14 August of that same year.

The purpose of these details is to show that one of the most significant aspects underlying the process of democratization in Argentina has been and continues to be the full re-establishment of human rights. Recognition of the international dimension of human rights reflects not only an unswerving will to respect them, but also the determination to heed and incorporate the observations and recommendations of the international monitoring agencies.

In this context, the advent of democracy has signified the beginning of a new stage for women, a stage whose most noteworthy characteristic is the opening of fresh avenues of participation of the kind that, in the future, will enable women to achieve the full realization of their rights.

(a) 2. Economic framework. In this area as well, the eight years of military rule also led to an obvious deterioration marked by a deepening confrontation between the various sectors of society as a consequence of an accelerated process through which the economic wealth of the country became concentrated in the hands of a few to the detriment of the immense majority of the people.

While Latin America as a whole experienced a reduction of 10 per cent in its economically active population (EAP) per inhabitant between 1980 and 1983, Argentina fell even further behind, since it had achieved the 1980 level as early as 1977. Logically, this meant that progress in the status of women was very largely stalled and even reversed, at times in specific areas and at others as a consequence of the overall decline of Argentine society.

In the specific case of our country, the Argentine woman represented a key figure in the family strategy of adjustment to this situation of crisis. The withdrawal from the market of the men, most of them heads of family with no job opportunities, gave rise to an increase in the levels of female economic activity within the same age groups. For women in the 35-to-44-year age bracket there was an increase of six per cent; for those between the ages of 45 and 54, of four per cent; and for women aged 25 to 34, of two per cent. Women entered the labour market in order to compensate for the loss of family income occasioned by a wage decline of approximately 40 per cent.

While it is true that women sought employment as supplementary workers, even with their low wages they were able to satisfy their families' basic necessities. In other words, their entry into the labour market represented a defence and survival mechanism in the face of a worsening economic situation.

However, while women's contribution of direct labour during this period was an obvious factor, even more noteworthy was their indirect contribution through unremunerated domestic labour. There is no question that at times of crisis domestic work acquires greater quantitative and qualitative importance. The fall in monetary income, only partially compensated by the stepped-up co-participation of women in the market, leads to an intensification of the production effort within the home as a means of providing substitutes for goods the family was formally able to purchase.

In order to reverse this situation, the constitutional Government adopted a series of measures, both of a general nature and with specific relevance for women and children, reflecting its belief that both these categories constitute the most vulnerable sectors of the society. These measures will be reviewed at the proper time in the discussion of the corresponding topics.

(a) 3. Social framework. One fact that is by itself indicative of the social predicament inherited from the previous régime was the notorious increase in illiteracy (1 million absolute illiterates and 5.2 million functional illiterates) and in the school dropout rate, as well as in other significant social indicators, such as health, nutrition (7 million undernourished children of whom 3.5 million with irreversible consequences), etc.

To this must be added the reinforcement of classical stereotypes regarding relationships between men and women and the latter's secondary role in society. What this means is that, in addition to the numerous social measures being implemented by the constitutional Government (which we shall discuss below), there must also be an effort on the part of the entire community to break free of certain long-standing patterns of thought that provided the inspiration for an authoritarian model of society.

(a) 4. Political framework. It was in 1947 that women won recognition of the same political rights as men, becoming able, as a consequence, to vote, to be elected to public office and to participate in all areas of public life.

The previous régime's suppression of political rights barred citizens from all forms of civic participation or activity. Nevertheless, particular note should be taken, as indeed it was by the international press at the time of the events in question, of the notable role played by women in the election process that ultimately led to the restoration of the present constitutional Government.

This political participation has continued through subsequent elections, and there has even been an increase in the number of women enrolled in the political parties, where their membership figures have drawn equal with those of men. Still, it needs to be recognized that neither this fact nor the intense militancy displayed by Argentine women have yet to be reflected in electoral lists or in their assumption of leadership positions within the various political groupings.

(a) 5. Legal framework. Article 16 of the National Constitution states that "all ... inhabitants are equal before the law", thereby asserting the juridical equality of men and women. Nevertheless, discriminatory practices often based on legal provisions have impeded or blocked genuine de facto equality.

The various reforms introduced in our legislation since December 1983, along with those which are in the process of implementation, not only demonstrate the nation's firm resolve to achieve this equality, but also, in retrospect, the obvious legal inequality that has heretofore existed between the sexes. The ratification of this Convention, as indeed of the American Convention on Human Rights and the International Covenant on Civil and Political Rights, both of which are similarly aimed at prohibiting any form of sex-based discrimination, is to be seen against this same background.

Conclusion. We have briefly described the social, political, economic and legal climate in which the country found itself at the moment of re-establishing its democratic institutions. Even though that moment may not have strictly coincided with the entry into force of the Convention, our juxtaposition of these two events is justified in the light of the extremely brief period separating them. Accordingly, the measures introduced by the constitutional Government to bring about the full restoration of human rights in general merge with and are complemented by those adopted for the implementation of the Convention.

As a consequence, if a proper reply is to be given to the question of "how the Argentine State is working towards the elimination of discrimination against women", an analysis must be made of the full range of measures adopted to combat all forms of discrimination, measures to which we have referred in particular under point (a) 1 above.

The remaining measures taken with specific reference to women, whether they be of a legislative or institutional measure, along with the transformations wrought throughout society, will be described at the proper time as part of the discussion of each of the relevant points.

(b) Legal and other measures adopted and their effect on the general, social, economic, political and legal framework of the Argentine State

(b) 1. In the legislative arena, the most important reforms to be introduced are connected with parental authority over children, the exercise of which was previously a prerogative of the father only, thus creating an instance of genuine discrimination, to which we shall refer in our discussion of article 15 of the Convention. In addition, the legislation did away with all discriminatory legal distinctions between children born in and outside of wedlock.

(b) 2. Numerous reforms of an institutional nature have been introduced.

(b) 2.1 For example, a programme was established, under the Ministry of Health and Social Action, entitled "Women, Health and Development in Argentina", the purpose of which is to improve the status of women, particularly with respect to the lack of economic resources, in all areas having to do with health and development through specific activities aimed at changing women's attitudes and behaviour with regard to health care, the achievement of a higher level of

prosperity and their greater involvement in the process of economic, social and cultural development. In addition to so-called "national encounters", the programme includes the publication of information pamphlets comprehensible to persons of all educational levels. So far, pamphlets on the following subjects have already been printed and distributed:

- The rights of women under the social security schemes;
- The rights of working women;
- The young woman and her psycho-biological development;
- Democratic participation by women;
- Nursing mothers.

For the information of the experts, three publications of the aforementioned institution are attached (see annex I).

(b) 2.2 Also under this same Ministry there has been created an Office for Human Development and the Family, whose mission is, inter alia, "to contribute to the promotion and improvement of the quality of life of women and the family by eliminating discrimination, encouraging participation, facilitating the work of organizations at the grass roots and intermediate levels, and co-ordinating programmes designed to provide care and prevent situations of vulnerability and/or risk affecting specific segments of the population, especially women and their families, for the purpose of promoting and guiding their social participation".

In accordance with Resolution 64/85 of the Ministry of Health and Social Action, the promotional programme on behalf of women and the family is aimed at achieving a series of objectives, namely:

- To study the situation of women and the family in the legal, labour, educational, cultural, health and socio-economic areas;
- To collect information and documentation regarding women and the family for use in the establishment of a data bank capable of serving as a basis for the formulation of programmes and standards designed to achieve the full involvement of women in social planning; to prepare reports and support measures contributing to the elimination of existing discrimination against women in society;
- To promote the involvement of women in organized community activities aimed at improving the quality of life of the population;
- To promote the technical and occupational training of women in accordance with their psycho-social characteristics and the requirements of the labour market;
- To promote, in the communication media, a change in the image of women more in keeping with their actual role at the present time;
- To develop basic, non-traditional support services for women designed to bring about improvements in the conditions of family and occupational life and to eliminate instances of social discrimination against women;
- To co-ordinate and monitor activities of promotion, prevention or treatment on behalf of families in situations of crisis or vulnerability due to their socio-economic circumstances;

- To survey the public and private infrastructure engaged in the provision of care for women and families, and to establish an effective network of facilities easily accessible to the entire community;

- To become involved in the evaluation of the technical and/or financial assistance requirements formulated by public and/or private institutions operating in this field, and in the monitoring of the projects approved;

- To co-ordinate, with the provincial and/or municipal governments, promotional activities on behalf of women and the family and in pursuit of the Office's objectives.

A great many operational mechanisms have been put into place for the purpose of achieving these objectives. So far, the preferred approach has been through the so-called national, provincial and municipal "encounters", which have produced positive and concrete results, particularly in neighbourhood work.

(b) 2.3 There has quite recently been established, within the Ministry of External Relations and Religious Affairs, a department devoted specifically to women's concerns. Its functions include that of ensuring that internal legislation is in compliance with the provisions of the international conventions ratified by our country.

(b) 2.4 Another relevant agency in this connection is the Working Women's Group, which operates within the Ministry of Labour and whose basic function is also to monitor compliance with international (ILO) conventions in the area of employment and to press for the ratification of those conventions that have not yet been signed by our Government. Internally, the primary purpose is to study the mechanisms used by the various departments of this Ministry for the purpose of monitoring compliance with the legal provisions enacted to protect women and working minors.

(b) 2.5 Another body currently in operation is the Commission on the Family, Women and Minorities in the Chamber of Deputies, whose task it is to examine the relevant legislation for its consideration by the Chamber. Its objectives may be summarized as the unity of the family, the total emancipation of women and the absolute protection of children.

(b) 2.6 National Food Programme (PAN)

This programme has been established as part of the activities of the Ministry of Health and Social Action. While it consists essentially of a programme designed to provide nutritional supplements for needy families, this initiative also has other dimensions concerned with family and community education and organization and with the dissemination of the related information.

The PAN packages (which contain food) are distributed on a monthly basis in all rural neighbourhoods and zones. This provides an opportunity for holding meetings with the women, since it is primarily they who collect the packages. At these meetings, the PAN extension agents provide information on health education (vaccinations, prevention of infantile diarrhoea, the promotion of nursing by mothers, etc.), formulate guidelines for community organization and promote community participation through the implementation of community purchasing schemes, neighbourhood clean-up programmes, etc. Cultural and recreational activities are also promoted and women are instructed concerning their rights.

These meetings have provided the basis for the creation of such civic organizations as mothers' committees, neighbourhood boards and community vegetable gardens.

The projects being pursued under this programme include both the conclusion of an agreement with the National Institute of Agricultural Technology (INTA) for advisory assistance in laying out community and family vegetable gardens, and also the setting up of sex education workshops in the neighbourhoods.

This is one of the constitutional Government's most important achievements, as indicated by the fact that it is currently benefiting some 1,330,000 families, primarily in rural or suburban areas.

For the information of the experts, a publication describing the essential features of this programme is enclosed (see annex II).

(b) 2.7 In response to the crucial problem of illiteracy, which affects a total of 6.4 million persons above 15 years of age, i.e., 33 per cent of the adult population, the National Commission on Functional Literacy Training and Permanent Education, subordinate to the Ministry of Education and Justice, has drawn up a National Literacy Training Plan. In 1985, 1,500 literacy training centres were opened throughout the country, a figure that has risen at the present time to 3,600, the hope being that a total number of 17,500 such facilities will be opened before the end of 1986.

The methodology employed at these centres does not limit the teaching process solely to reading, writing and mathematics, but also includes instruction on subjects essential to the comprehensive development of the free individual and of vital importance to all adults, such as civics, health, housing, labour relations, the co-operative movement and human rights. In addition, at many of these centres training is given in such occupational skills as carpentry; electricity; sewing; machine, hand or loom weaving; drawing; ceramics; and cooking, as well as in first aid, gymnastics and other subjects. Further, talks are arranged on health, preventive medicine and homemaking.

While it is true that no precise statistics are available on the percentage of illiterate men and women or on the differences that may exist in this area between rural and urban zones, it is evident that the principal target group for this literacy training effort is women, as may be seen from the programmes of instruction and the sites designated for the literacy training centres (see annex III).

(b) 2.8 In the provinces there are numerous promotional programmes for women and the family, implemented by the local authorities with the co-operation, at the national level, of the Office for Human Development and the Family. By way of example, mention might be made of the provinces of Neuquén, Córdoba, San Luis, La Rioja and Buenos Aires, among others.

(b) 3. Operating in the non-governmental area are many non-profit institutions engaged in the promotion of women's rights and in tasks of education and assistance. Along these same lines one finds numerous public-interest groups that are administered and run by women and which are among the associations of this kind with the largest volunteer membership. These groups operate under the general aegis of a parent organization known as "Condecoord" and cover an entire range of public-interest activities.

Among those that operate on the specific behalf of women, the following are worthy of mention: the "Women's Halfway and Promotion Home", which provides shelter for women and their children until they find work; "Homes for Single Mothers"; the "Young Women's Guidance Association", with its accommodation facilities and promotional courses; etc.

Also of great service to women and their children are the many congregations sisters of charity congregations that throughout the country provide care for needy women and for abandoned, sick or disabled children.

In addition, there are feminist organizations in Argentina whose activities and concerns are principally focused on sex education, contraception, the depenalization of abortion, and on measures to combat violence against women, and which maintain contacts with international organizations.

The "Conciencia" ["Conscience"] group is a movement engaged in the teaching of civics. It has a number of headquarters within the country and its activities are publicized over television and radio and in magazines.

The Association of Women in Legal Careers is a society of professional women working in the field of law. It performs a community service function by providing counselling on subjects relating to the family, the work-place, retirement, etc.

The housewives of the country are fighting against exaggerated price increases by organizing protest campaigns and by refusing to buy in specific cases. These women are grouped together in an organization known as the "Multsectorial de la Mujer" ("Multisectoral Women's Association").

The "Multisectorial" was established in 1984 for the purpose for fighting for equal rights for men and women and for equality of opportunities, a further demand being the full participation of women in political life. The organization is financed through contributions by its members and brings together persons belonging to various political parties and women's associations.

There are also in operation throughout the country a number of centres and groups engaged in the study of women's issues, such as CEDES, CENEP and CLACSO.

(c) Institutions engaged in ensuring de facto respect of the principle of equality between men and women, and remedies available to women who have been the victims of discrimination

As previously pointed out, article 16 of the National Constitution establishes the principle of the equality before the law of all inhabitants, thus excluding any form of sex-based discrimination. Accordingly, in addition to the judicial remedies that are provided for under the Argentine legal system and which allow for the filing of suits under civil, criminal and labour law, and also the recourse procedures available for the settlement of administrative disputes, note should also be taken of the positive role played by national institutions, both public and private, in safeguarding the rights of women and in factually ensuring genuine equality between the sexes.

(d) Means used to promote and ensure the full development and advancement of women

As already noted, the machinery established by the State for this purpose is of both a legal and an institutional nature, and accordingly the reader is referred to the previous discussion.

(e) Possibility of directly invoking the Convention before the courts or administrative authorities

It is likely that in response to this question there will be some temptation on the part of governmental authorities to give a formalistic reply, whereas in reality the point at issue involves one of the Convention's most decisive aspects and one that will require clear and precise instructions on the part of the Committee in order to eliminate a number of doubts or ambiguities that still exist in countries such as ours with respect to the direct application of the provisions of international law by the internal authorities.

Article 31 of the National Constitution stipulates that international treaties are the supreme law of the nation, ranking equal to national law and coming immediately after the National Constitution. Further, in order that a treaty may be ratified by the national executive authority, prior approval is required in the form of a law enacted by the congress. Once both legal requisites have been satisfied (approval by the parliament and deposit of the instrument of ratification by the national executive authority), an international treaty or convention acquires the same force within the country as a national law. If to this we add the principle that a subsequent law annuls a prior one, those States which, like Argentina, have recently ratified the Convention need only cite this juridical argument in order to affirm its full legal force within their internal system of laws.

Nevertheless, two clarifications are in order. In the first place, many countries that follow the continental system have, with pervasive effects on their case law over many decades, extensively developed a dualist doctrine which, in addition to the approval conferred under the law enacted by the parliament, requires internal statutes typifying, as it were, the provisions of the convention in question. In the past, this additional legal requirement has blocked the direct application of international conventions, and we are obliged to recognize that this debate has not yet been definitively laid to rest in our country, since vestiges of this dualist philosophy still persist in the legal thinking of a number of magistrates.

Secondly, the provisions of the Convention on the Elimination of All Forms of Discrimination against Women are programmatic in nature, requiring in most cases internal rules for their implementation. As a consequence, we cannot exclude the possibility, as a practical matter, that contradictory sentences may be handed down by our judges, for the reason that some will wish to apply the Convention directly, which is in fact what the Government wants, while others may invoke (in those few areas in which there has been no legislative progress) the non-existence of binding internal statutes in harmony with the requirements of the Convention.

Still, it is worth while noting that in the case of the American Convention on Human Rights, recently ratified, many judges have chosen to apply this instrument in its direct form, thus initiating a jurisprudential trend that, in addition to being both promising and in keeping with contemporary international reality, also reflects the will of the Argentine Government in this area.

Part II

Methodological clarification. In order to follow the general guidance regarding form and content of the reports, we shall, in this second part, discuss the relevant laws and programmes together with the institutions that enforce or implement them. In so doing, we shall follow the order in which the individual articles of the Convention are presented, leaving until the end the identification and analysis of those factors that are impeding or limiting the full realization by women of their rights and the elimination of which represents one of the most urgent aspirations of the Argentine Government.

Articles 1, 2 and 3 of the Convention. Essentially, these three articles refer to the measures, primarily legislative but others as well, which the States must adopt in order to bring themselves into compliance with the Convention. With respect to the legislative and other measures that have been introduced in order to satisfy the requirements of the Convention and which are aimed at achieving both de jure and de facto equality between women and men, the reader is referred to the first part of this report and in particular, to the replies given in respect of articles 10, 11, 12, 15 and 16 of the Convention.

Articles 4 and 5 of the Convention. With regard to the socio-cultural patterns that are impeding the elimination of discriminatory prejudices or practices based on sex, it should be borne in mind that these will not be changed simply as the result of the laws already enacted or of the legislative adjustments that may be made in the future. The transformation of these patterns will occur primarily in response to programmes of enlightenment and through contact with a new reality made possible by a process of democratization based on and supported by the unrestricted participation of women in all walks of economic, social and cultural life.

Further, it should be noted that all of the programmes currently being undertaken by both the governmental and the private institutions of the country take adequate account of maternity as a social function and show special concern in all cases for the interests of the children.

On the question of temporary measures that are designed to accelerate the advent of de facto equality between men and women and which involve instances of "positive discrimination", an example that might be cited is the prohibition of night work, except in activities of a non-industrial nature, such as, e.g., airline stewardesses, nurses, etc. What is more, in cases of this kind the law indicates that women are to be accorded preference in hiring for these positions.

Later on in this report we shall deal with other situations that imply a kind of positive discrimination in favour of women, some of them temporary and others permanent in character. On this point, the reader is referred to the discussion of article 11 of the Convention and the "protective limitation" clauses of Law No. 20,744 cited in that connection.

Article 6 of the Convention. For the purpose of eradicating practices that involve the degradation of some human beings by others and which affect primarily the social situation of women, the Argentine Government has ratified the International Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. In harmony with this international instrument, article 125 of the Argentine Penal Code states the following: "Whoever, with a view to profit or in order to satisfy his own or another's desires, promotes or facilitates the prostitution or corruption of minors, shall, without distinction as to sex and regardless of the victim's possible consent, be punished: (1) With confinement or imprisonment for a period of from 4 to 15 years, if the victim was younger than 12 years of age; (2) With confinement or imprisonment for a period of from 3 to 10 years, if the victim was older than 12 and younger than 18 years of age; (3) With imprisonment for a period of from 2 to 6 years, if the victim was older than 18 and younger than 22 years of age.

"Whatever the victim's age, the penalty shall be confinement or imprisonment for a period of from 10 to 15 years when the crime involved deception, violence, the use of threats, the abuse of authority or any other means of intimidation or coercion, and also if the perpetrator was an ascendant, husband, brother or tutor of the victim or a person charged with her education or guardianship or was cohabiting with her as in the married state."

Article 126 of the Argentine Penal Code states: "Whoever, with a view to profit or in order to satisfy the desires of others, promotes or facilitates the corruption or prostitution of persons who have reached their majority by means of deception, violence, the use of threats, the abuse of authority or any other means of coercion, shall be punished with confinement or imprisonment for a period of from 4 to 10 years."

Article 127 bis of the Argentine Penal Code states: "Whoever promotes or facilitates the entrance into or departure from the country of a woman or minor in

order that that person may engage in prostitution shall be punished with confinement or imprisonment for a period of from 3 to 6 years. The penalty shall be increased to 8 years if any one of the circumstances described in the final paragraph of article 125 is involved."

Another of the offences contemplated in the Argentine Penal Code is the crime of procuring (article 17 of Law No. 12,331), under which the maintenance, management or operation of a brothel in which women are exploited for prostitution is subject to exemplary punishment. On the other hand, it must be conceded that there are very few institutions, either private or public, that are engaged in the social "rehabilitation" of prostitutes, even though it is clear that the current socio-economic environment conspires against women, who occasionally, through their inability to find suitable employment, fall victim to these practices.

Articles 7 and 8 of the Convention. As pointed out above, since 1947, the year of the enactment of Law No. 13,019, Argentine women have had the right to vote and to be elected to public office and have enjoyed full capacity to exercise their political rights.

However, as already noted, the political parties, when selecting their candidates, disregard the large number of women among their members. As a result, their lists consist overwhelmingly of men, as can be seen in the attached tables 1 and 2 (see annex IV).

As our reference for these tables, we have taken the electoral district coinciding with the Federal Capital, since this is the one for which the most accurate statistical data are available. In both the 1983 and 1985 elections the percentage of women candidates running for elected office, whether as the official holder of the position or the alternate, did not exceed 10 per cent in the majority of the recognized political parties. This percentage was not substantially different elsewhere in the country.

The same phenomenon can be seen when one considers the participation of women in the trade unions. As far as the civil service is concerned, while the number of women professionals is greater than that of men, their representation in senior positions is markedly lower. This state of affairs is also typical of the field of private activity.

As it happens, one of the areas in which there has been a decrease in this disparity between the percentage of men and women holding responsible positions is the Argentine Foreign Service. During the first two years of the constitutional administration, a woman, Ambassadress Elsa Kelly, was Secretary of External Relations, and currently the position of Under-Secretary for Human Rights with international responsibility is held by Ambassadress María Teresa M. de Morini. Similarly, women are at the head of the two departments subordinate to this office (the Department of Women's Affairs and the Sub-Department of Human Rights).

Article 9 of the Convention. Argentine legislation regarding nationality makes no distinction on the basis of sex, nor does marriage have any effect on the nationality of the wife.

Article 10 of the Convention. On this point, it should be remembered that Argentina is a party to the Convention against Discrimination in Education and to the Protocol Instituting a Conciliation and Good Offices Commission within the framework of UNESCO. Further, there is no national statute contrary to the spirit of article 10 of the Convention, so that it is fair to say that both sexes enjoy the same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories.

Neither is there any discrimination in connection with curricula or with opportunities to obtain scholarships and other study grants. Nevertheless, with respect to paragraph (c), which requires the elimination of all stereotypical sex role concepts, their eradication from the educational curricula has yet to be achieved.

Proof of this may be seen in the fact that certain textbooks still contain clear references to the traditional roles of men and women. On the question of functional literacy training programmes, we refer the reader to point (b) 2.7 of Part I, taking the opportunity to note once again that 80 per cent of all persons enrolled are of the female sex.

One approach that, although inadequate by itself, has been found to be of some use in reducing the school dropout rate for females is the system of correspondence school courses, in which girls and women account for 70 per cent of the enrolment.

In terms of equality with men, women's participation in sport and physical education is guaranteed only within the school system; physical education and sport is commonly assigned to both sexes. Outside the school system, there is a programme entitled "Sport for All", which is designed to enable persons from various sectors of society to put their free time to constructive use by guiding the activities of individuals engaged in non-traditional sports and by promoting family integration through the medium of sport (see annexes IV and V).

Finally, both family health and welfare are protected under a broad range of laws, to which we shall make particular reference when discussing articles 11 and 12 of the Convention. It is also useful, in this connection, to recall what has already been noted regarding the work being carried out by the Ministry of Health and Social Action through the programme entitled "Women, Health and Development", to which we have referred under point (b) 2.1 of Part I of this report.

For the information of the experts, there is attached a publication of the Ministry of Education and Justice reflecting the effort being undertaken by the constitutional Government of Argentina and its objectives in seeking to bring about a radical transformation of the country's educational policy. In this connection, the convening of a national pedogogical congress, involving the direct participation of the entire public and, in particular, the teaching profession in the revision and restructuring of the national educational system represents a convincing demonstration of this will and an unprecedented example of public participation in cultural affairs (see annex VI).

Article 11 of the Convention. We shall outline below in a comprehensive manner the juridical and institutional framework within which the Argentine State ensures equality between men and women in the area of employment. As this is a subject that has already been internationally regulated, we shall refer both to internal constitutional and legal requirements and to any subsequent modifications that may have been made so as to bring them into harmony with the various conventions drawn up by the International Labour Organisation and ratified by our country.

I. Internal legal framework

1. Constitutional laws. Argentine legislation recognizes rights and obligations for all employed workers, without distinction as to sex and based on the principle of equality for all inhabitants, as provided for under the National Constitution.

Article 14 of the Constitution states that "All inhabitants of the nation enjoy the following rights, in conformity with the laws regulating their exercise, namely: to work and to engage in any licit occupation ...".

Article 14 bis also stipulates that labour in its various forms is to enjoy the protection of the law, which, inter alia, ensures the worker the right to equal remuneration for identical tasks. Although the subject of remuneration has received special emphasis, all the rights enumerated in the law are to be accorded to all workers without distinction.

In this connection, article 16 states: "The Argentine nation recognizes no prerogatives on the basis of blood or birth, nor does it recognize personal privileges or titles of nobility. All its inhabitants are equal before the law and eligible for employment, subject to no condition other than that of suitability. Equality is the basis for taxation and for public levies".

These provisions are supplemented by article 28, which establishes that "The principles, guarantees and rights recognized in the preceding articles shall not be subject to amendment by the laws regulating their exercise".

Finally, and by way of concluding this examination of the country's constitutional norms, mention should be made of the principle asserted in article 31 regarding the order of priority of the laws: "This Constitution, the laws of the nation enacted by the Congress in pursuance thereof, and the treaties concluded with foreign powers represent the supreme law of the land ...".

2. The Labour Contract Law. The Labour Contract Law, No. 20,744 (T.O. 1976), which regulates activity in the form of labour, enshrines the constitutional principles described above.

This law regulates the rights and obligations of workers, with the exception of employees of the public, provincial and municipal administration and also of domestic workers, who are governed by their own statutes.

This same legal instrument includes, in its Titles VII and VIII, all the specific provisions pertaining to the work of women.

Capacity of women as the subject of labour contracts. Article 17 of Law No. 20,744 states that "This law prohibits any kind of discrimination between workers on the basis of sex, race, nationality, religion, political views, trade union affiliation or age".

In its article 32, the Labour Contract Law stipulates that a married woman may conclude a labour contract without the authorization of her husband, this capacity being reaffirmed under article 172, which marks the beginning of that section of the law which is concerned with the regulation of the work of women (Title VII, Chapter I).

Article 172 accords women the capacity "to conclude labour contracts of all kinds, whereby collective employment agreements or authorized regulations must be free of any discrimination in respect of employment on the basis of sex or the woman's civil status, even though this status may change during the course of the employment relationship". "Any collective agreement or wage scale that may be formulated shall guarantee the full observance of the principle of equality of remuneration for work of equal value".

On the question of collective agreements, it should be made clear that, while these may not depart from constitutional or legal requirements regarding labour rights and obligations, they may introduce improvements in specific situations,

provided that such improvements do not result in an infringement of a public interest. As for individual labour contracts, these too are bound by the requirements of the collective agreements, except that they may go beyond the benefits provided by the latter. Here also, the principle of non-discrimination on the grounds of sex must be respected.

It is interesting to observe that the sources for the regulation of labour contracts are, first of all, the Labour Contract Law itself and then, following the order of priority laid down in its article 1, professional (occupational) laws and statutes, collective agreements or decisions having the force of such decisions, the will of the parties, and finally practice and customary usage.

It follows from the foregoing observations that, with reference to the problem of economically active women, Argentine legislation excludes, by virtue of its fundamental law and the statutes enacted in conformity therewith, any possibility of discrimination on the grounds of sex.

Equal treatment. Like the preceding point, this subject is regulated by article 14 bis of the National Constitution, under which workers are ensured equal remuneration for equal tasks and which also provides for the inclusion of a similar guarantee in collective labour agreements, in accordance with the requirements of Law No. 20,392/73, whose purpose was to give proper force to ILO Agreement No. 100, ratified by our country in 1956.

Article 1 of this Law states: "No differences in remuneration may be established between the labour performed by men and that performed by women in work of equal value. Any provision to the contrary that may be contained in collective labour agreements concluded or renewed following the entry into force of the present Law shall be null and void".

Article 17 of Law No. 20,744 establishes in a general form the principle of equal treatment, this criterion being reaffirmed in article 81 of the same legal instrument: "Where situations are identical, the employer must extend equal treatment to all workers. Unequal treatment shall be deemed to exist when there is an occurrence of arbitrary discrimination on the grounds of sex, religion or race, but not when the difference in treatment is in response to principles of the common good, such as that based on a worker's greater efficiency, industriousness or dedication to his tasks".

Article 173 of this Law, to which we have already referred, states expressly that: "Any collective agreement or salary scale that may be formulated shall guarantee the full observance of the principle of equal remuneration for work of equal value".

Protective limitations or positive discrimination. Title VII of Law No. 20,744 provides for limitations on the contractual autonomy of working women with a view to ensuring that they are adequately protected.

These restrictions envisage to the following conditions:

(a) Maximum working day set at eight hours (or 48 hours a week);

(b) Prohibition of night work (from 10 p.m. to 6 a.m. of the following day) with two exceptions: (1) work of a non-industrial nature to be performed preferably by women, and (2) work performed at establishments presenting shows for public entertainment during night-time hours;

(c) Two-hour rest period at noon in the case of a discontinuous (morning and evening) working shift;

(d) Ban on the assignment of housework to women employed at the premises or branches of an enterprise in order to prevent a violation of the limitations on the length of the working day;

(e) Ban on the employment of women in work of an arduous, dangerous or unhealthy nature.

Protection of maternity. Articles 177 and 179 of the Labour Contract Law provide for the following benefits for working women in connection with maternity:

(a) Maternity leave preceding and following the birth (45 days in both cases), with retention of employment;

(b) Receipt, during both periods, of an amount equal to what the woman would have earned, had she continued to work (this benefit is paid under the social security scheme);

(c) Possibility of extending the absence from work beyond the expiry of the fixed period of post-partum leave, if required because of illness in connection with the pregnancy and/or birth, as certified by a physician, resulting in the woman's inability to resume her employment duties within the time provided for;

(d) Job security during pregnancy, whereby this security is to be in the nature of an acquired right from the time when the woman worker notifies her employer, in an official manner and with the accompaniment of a medical certificate, of the fact of her pregnancy;

(e) Presumption, in the case of dismissal, that such dismissal was due to reasons of maternity or pregnancy when ordered within a period of seven-and-a-half months preceding or following the date of the birth, provided that the woman worker complied with her obligation to provide notification and proper certification of the fact of her pregnancy and, as the case may be, of the birth of her child;

(f) Receipt of the compensation specially provided for in article 182 of the Labour Contract Law, if the dismissal was for reasons of maternity or pregnancy;

(g) Two rest periods of one-half hour each during the working day to permit the woman to nurse her child, with this privilege to continue for up to one year following the date of the birth, except when there are medical reasons to justify a longer period;

(h) Provision by the employer of nurseries and special rooms for mothers, in accordance with regulatory standards that have not yet been established.

Absence with retention of acquired rights [Spanish: "excedencia"]. In its original meaning, this term is used to designate the status of a civil servant who, with no change in title or loss of entitlements, is exempted from performing the duties normally associated with his profession or assignment.

Under the Labour Contract Law, this term refers to the situation of a working woman who voluntarily assumes this status for the purpose of coping with either of two particularly important occurrences within the family: the birth of a child or the sickness of a minor child under her care.

Law No. 20,744 imposes the following requirements which the working woman must satisfy for entitlement to the right of absence with retention of acquired rights:

(a) A valid employment relationship must exist;

(b) Residence within the country (this does not mean that the woman may not later leave the country if the situation giving rise to the benefit so requires);

(c) One year of seniority on the job.

In accordance with article 199 of the Labour Contract Law, the working woman may select a period of absence extending over a minimum of six months and a maximum of one year.

The payment received by the worker under this benefit will be in the amount of 25 per cent of her normal and customary remuneration and may not exceed a minimum living wage for each year of service or fraction thereof of more than three months.

3. Other legislation

As we have already noted, the Labour Contract Law, No. 20,744 (T.O. 1976), which regulates labour activity, covers neither employees of the national, provincial and municipal public administration nor domestic workers, who are governed by their own statutes. Similarly excluded are rural workers, whose activities are regulated by the Farm Workers' Statute, Decree No. 28,169/44 (emergency enactment).

The National Public Administration Statute (Law 20,172) makes no provision in the case of State workers for the conclusion of a collective labour agreement allowing for negotiations on working conditions or salaries. It should be emphasized that, in any case, this Statute permits no form of discrimination on the basis of sex.

For persons working in the domestic sector, who are also outside the provisions of Law No. 20,744, there is a special statute (Decree No. 326/56). This statute covers only those persons who work a total of more than four hours a day on more than four days a week for the same employer. Persons who work by the hour in more than one household and who work a total number of hours and days below the required minimum are not legally protected.

Although the Domestic Workers' Statute does contain a number of provisions in respect of the length of the working day, rest periods, vacation time, conditions of health and nutrition, dismissal and retirement, in actual practice it is clear that the persons working in this sector are among the most vulnerable and legally unprotected, since, given the nature of their work, not only is it difficult to meet the requirement of 16 hours worked for the same employer, but also the conditions under which the work is performed add enormously to the difficulty of any kind of verification.

As in many other countries, the majority of domestic workers are women, and on this subject the reader is referred to the comments made under point 3.

4. Right to trade union membership. Article 14 bis of the National Constitution, ratified on 24 October 1957, provides for legal protection to ensure the worker "dignified and equitable conditions of labour: a limited working day; ... a free and democratic trade union organization, recognized on the basis of simple registration in a special register".

The Labour Contract Law provides for the retention of employment and the reinstatement of workers who may have interrupted the performance of their duties for the purpose of assuming an elective or representative office in a workers' professional association.

The Law on Workers' Professional Associations (No. 22,105) recognizes as such any organization of a permanent nature formed by working men and women for the defence of their union and employment rights.

Article 7 of Law No. 22,105 rejects discrimination of any kind and states that "Trade unions may not be formed on the basis of political ideologies, religious doctrines, nationality, race or sex, nor may they distinguish between their members on the basis of these criteria ...".

It is worth while noting that women were not legally subject to explicit discrimination with respect to their rights of trade union affiliation, although the difficulties - both those arising out of their family responsibilities and those connected with the cultural barriers prevalent in predominantly male working groups - that impede their participation in trade union associations continue to be very substantial.

While recent years have seen an increase in women's involvement in trade union life (not only for the purpose of defending their interests, but also with a view to technical or cultural training), in general they are conspicuous by their absence at the managerial or executive level within the organizations.

Very few unions provide membership statistics according to sex, but the research on the subject would appear to indicate that even when women constitute the majority of a union's members, they are relegated to secondary tasks, such as that of records secretary, treasurer, etc.

In the discussion below there is an analysis of the results of the trade union elections for a sample of unions covering areas of activity with a high percentage of female labour: retail trade, textiles, food and health.

Retail trade. Three unions were considered, operating in the Federal Capital and the cities of La Plata and Rosario.

Out of a total of 56 members of the three organizations' executive commissions, only two are women. In the Federal Capital, out of a total of 20 members there is only one woman in the position of regular board member. In the city of La Plata, out of a total of 20 members there is not a single woman. In Rosario, out of 16 members there is only one woman, who holds the position of Library and Culture Secretary.

Textiles (Textile Workers' Association (AOT), operating throughout the national territory). There are no women in the first 20 posts on the Executive Commission.

Food. Three trade unions operating in Buenos Aires, the city of Quilmes and in Mendoza Province were selected. Out of a total of 50 members there are only two women on the executive commissions.

Of the first 20 posts on the Executive Commission of the union operating in Buenos Aires, only one regular member position is held by a woman.

In the city of Quilmes in Buenos Aires Province, out of 16 members there is only one woman (an alternate member).

Finally, in Mendoza Province, the 14 members of the Executive Commission are all men.

Health. Three trade unions operating in provinces of Buenos Aires, Córdoba and Santa Fe were selected. It was found that out of 45 members, 10 were women.

In Buenos Aires, out of 20 members, three are women and hold positions of Under-Secretary for Finance, Secretary for Trade Union Affairs and Under-Secretary for Social Assistance.

In Córdoba Province, out of 15 members, women hold two regular seats and one alternate seat.

In Santa Fe Province, out of a total of 10 members, there are five women on the executive commission: one as Secretary for Trade Union Affairs, two as regular members and two as alternate members.

What this means is that out of a total of 171 executive commission members for the 10 trade union organizations operating in important urban centres of the country, women account for scarcely 8 per cent of the leadership positions. This low level of representation in the trade union organizations is seen as one of the factors responsible for a certain lack of initiative on the part of the unions in dealing with the problems of working women.

II. International laws

Correspondence of Argentine legislation to the requirements of international agreements

Argentine legislation is fully in accord with the provisions of international agreements.

The Argentine Republic has ratified a series of International Labour Organisation agreements: Nos. 3, 4, 41, 45, 100 and 111. The discussion below refers to the correspondence of the country's internal legislation to the provisions of the most important of these agreements.

ILO Agreement No. 41 (night work (women)). It may be noted that the labour contract conditions approved under Law No. 20,744 and modified under Law No. 21,297 contemplate, in article 173, greater protection than that provided for in ILO Agreement No. 41, considering that the night-time period extends from 8 p.m. of one day to 6 a.m. of the following day. The possibility of reducing this period, e.g., limiting it to the time between 10 p.m. and 6 a.m. in the case of industrial enterprises operating around the clock with three shifts, is also provided for within the limits established by the Agreement. The only exceptions contemplated in our legislation are included in this same article 173 and are restricted to non-industrial work.

ILO Agreement No. 45 (underground work (women)). Law No. 20,744, which replaced the provisions of Law No. 11,317 on the work of women and minors, preserved in force, inter alia, articles 10 and 11 of the former law, which specify those tasks the performance of which by these two categories of specially protected workers is not permitted. For example, article 11, paragraph (b), contains an express prohibition of work by women in mines and quarries.

ILO Agreement No. 3 (on the protection of maternity). The labour contract conditions contain the following provisions:

(a) Prohibition of work during a period of 45 days preceding and 45 days following the birth of a child. These periods may be altered at the request of the working woman, provided that the length of the leave taken before the birth is not less than 30 days, whereby the remaining days are credited to leave following the birth. There is explicit provision for the case of premature birth, in which circumstance the law provides that the mother is entitled to 90 days of leave;

(b) Receipt of an allowance equal to her salary or wage during the periods of pre-partum and post-partum leave;

(c) Right to remain absent from work, with the benefits accorded in the case of blameless illness, for a period longer than those indicated in the event of illness connected with the pregnancy or birth;

(d) Job security during pregnancy, with this security to be in the nature of an acquired right from the time the woman worker notifies her employer, in an official manner and with the accompaniment of a medical certificate, of the fact of her pregnancy. Consequently, if the woman is dismissed for reasons of maternity or pregnancy, she must be paid compensation in the amount of one year's wages, with this sum to be added to the standard dismissal compensation;

(e) Presumption, in the case of dismissal, except where there is evidence to the contrary, that such dismissal was due to reasons of maternity and pregnancy when ordered within a period of seven-and-a-half months preceding or following the birth of the woman's child;

(f) Right to two rest periods of one-half hour each during the working day to permit the woman to nurse her child, with this privilege to continue for up to one year following the date of the birth, except when there are certified medical reasons to justify a longer period;

(g) Use of nurseries and special rooms for mothers, which the employer will be required to provide under conditions to be determined in the form of regulations;

(h) Right to absence with retention of acquired rights [Spanish: "excedencia"]. Once her post-partum leave has ended, the women may choose between: (1) the resumption of her duties; (2) the cancellation of her contract, in which case she is entitled to receive compensation for her time of service calculated at 25 per cent of her remuneration (not to exceed a minimum living wage) for each year of service or fraction thereof of more than three months; or (3) a status of absence with retention of acquired rights, i.e., the suspension of the two principal benefits of the contract, the work and the remuneration, for a period of not more than six and not less than three months.

This protection is supplemented through the granting of a pre-natal allowance, which was written into Law No. 18,017 by Law No. 20,590. This allowance is paid to the working woman during the nine months of pregnancy or, if she is not working, to her husband.

From this review of the remuneration provisions of Argentine legislation it is clear that the country's internal laws meet the requirements of the ILO Agreement. This fact notwithstanding, it should be noted that the ILO Agreement provides for two aspects that are not fully covered under Argentine legislation:

(1) The provision of free medical attention for the birth of the child; and

(2) The full crediting of post-partum leave in the event the birth is delayed beyond the anticipated date.

Regarding these two points, the following comments are in order:

(1) Although the working woman is provided with medical care under the social security scheme of which she is a member and by the national, provincial or municipal hospitals, this care is not free of charge for the reason that, in general, social security pays only a part of the costs and a fee is charged for the hospital care. As a consequence, medical care in connection with maternity is free only in cases of demonstrated indigency.

(2) The language of article 172 of the Labour Contract Law permits the interpretation that an error in calculation involving an extension of the obligatory period of absence from duty prior to the birth is no obstacle to the taking of the leave required in these circumstances, nor may it be invoked to reduce the leave period following the birth. Nevertheless, in order to avoid possible disputes and render the legal position of the parties to the employment relationship unambiguous, the situation in question could be regulated in specific language. This would require the revision of article 177.

As pointed out in the preceding chapter, Argentine legislation provides for equal treatment of women in respect of employment, asserting the principle of equal pay for equal work. In this way, the country's laws are in harmony with and represent a reassertion of ILO Agreement No. 111 on the elimination of discrimination in the area of employment.

Similarly, national law is in compliance with the prohibition against night work by women, as required under ILO Agreement No. 45.

Final comments on article 11 of the Convention. In the light of the discussion to this point, there are valid grounds for reiterating that, through its legislation, Argentina honours the general principles underlying its policy of equality of opportunities and treatment in the area of employment.

Since the early days of the present century, Argentine labour legislation has directed particular attention to the status of women in the labour market, even though, prior to the enactment of Law No. 20,744/73, women were grouped together with minors to form a category of workers regarded as requiring greater protection. This practice implied a form of differential and, therefore, discriminatory treatment of women, since it tended to reinforce their role as reproducers of the work-force.

The current legislation provides for the protection of women with a view to preventing discrimination against them in respect of access to and maintenance of employment. It achieves these purposes by recognizing the enjoyment by women of legal capacity in respect of labour contracts, by guaranteeing them equal treatment in the area of remuneration, by establishing standard rules for the protection of their maternal function, and by eliminating the possibility of their dismissal for reasons of marriage.

Article 12 of the Convention. On the question of access to medical care, there is no legal discrimination between men and women. On the contrary, as pointed out in the discussion of the preceding article, the Argentine legal system provides that all persons who work in an employment relationship, regardless of their sex, are eligible for medical care services on a basis of equality.

The institution of universal medical care coverage beginning in 1970 was accompanied by the inclusion of rural workers and of retired and pensioned persons, both together with their family group. In Argentina, the entire system of medical care coverage includes the worker's family group: the spouse and the children of up to 21 years of age. This represents a benefit for women. Since 1984, the constitutional Government has extended this coverage to workers' children of up to 25 years of age, who are pursuing studies. This is also advantageous to women, although it is not a measure specifically designed on their behalf. This year, too, coverage regulations were introduced for women who are not legally married, a very frequent situation in our society, and this must also be seen as directly benefiting them.

Unlike a number of advanced countries that have comprehensive family planning systems, in our country the various functions carried out by these systems are performed by a variety of official agencies and supplemented by the work of private organizations. We have already referred to this point in the first part of this report.

With regard to the legal regulations pertaining to the protection of women during pregnancy, childbirth and the period thereafter, the reader is referred to the discussion of article 11 of the Convention.

Nevertheless, the woman's situation is less favourable when neither she nor her husband work in an employment relationship and when they lack the means to avail themselves of private medical care, which is in most cases extremely expensive. We refer here, in particular, to women who are employed as domestic workers, as well as those who perform similar tasks, since their employers do not normally contribute to the respective social security schemes, with the result that women employed in these positions are deprived of adequate coverage. Still, the situation is relieved by the fact that the Argentine hospital system does provide free medical care for all persons who can prove that they lack sufficient means. Similarly, there are a large number of so-called Mother-Child Centres, which, while not providing shelter for the mothers, do make available free health care to them and to their children.

Finally, it should be remembered that one of the key objectives of the National Food Programme is in fact the elimination of malnutrition, particularly among young children.

Article 13 of the Convention. The most salient aspects of Government action aimed at the elimination of discrimination against women in economic and social life have been discussed in detail in the first part of this report.

In further development of this subject, it seems to us of importance to note a number of innovations which Argentine positive law has recently introduced and which relate to the requirements of paragraph (a) of this article.

Law No. 23,226, enacted on 22 August 1985, confers a pension entitlement on a woman who has lived in an apparent marital relationship with a prime beneficiary, separated from his wife, for a minimum period of five years immediately preceding his decease.

The required period of cohabitation is reduced to two years when there is a recognized child born to the couple or when the prime beneficiary was single, a widower, legally separated or divorced.

With respect to equality of rights in obtaining financial credits, loans, etc., as discussed in paragraph (b) of article 13 of the Convention, there is no legal difference in the treatment accorded to men and women. The same is true of participation in recreational activities and cultural life in general.

With regard to sports, the democratic Government has launched a national programme entitled "Sports For All", which is aimed at the entire family.

Article 14 of the Convention. On the question of rural women, it should be made clear that, despite the fact that these women have benefited from the entire range of provisions that have been adopted in one or another area by the constitutional Government, the specific measures introduced so far are still inadequate. On the other hand, there are many plans currently in the preparatory phase whose purpose is to reverse the current difficult situation of women in rural areas. For example, the Inter-American Commission of Women (ICM) is engaged in the formulation of a comprehensive plan for the promotion of indigenous women.

As previously pointed out in the discussion under point (b) 2.6, the National Food Programme has had an extremely positive impact in rural zones by introducing new approaches to community organization.

Progress is being made through the system of community purchasing towards co-operative forms that are not only unprecedented in our country, but are enabling rural women to display a kind of initiative unknown until the present day.

Through the promotion of cultural and recreational activities for women and by instructing them on their rights, a number of new civic organizations have come into being, such as mothers' committees, neighbourhood boards and community vegetable gardens.

Working through the National Institute of Agricultural Technology (INTA), the national Government is supporting and providing advisory assistance in the laying out of community and family vegetable gardens.

During the meetings held between the representatives of the National Food Programme and the beneficiary families, particular emphasis is placed on assistance activities. As a result, it has been possible to conduct a genuine survey of health care, housing, communication and assistance requirements and of general supply-related needs.

When referring, under point (b) 2.7, to the National Literacy Training Programme, we had the opportunity to point to the positive effects this programme has had on the female population and on rural women in particular. The mutually reinforcing role of this and the aforementioned food programme is as evident as are their contribution towards bringing about the comprehensive transformation of Argentine rural life.

Article 15 of the Convention. As has been repeatedly mentioned, article 16 of our National Constitution states that "all ... inhabitants are equal before the law", thus anchoring the principle of the legal equality of men and women.

This principle, which is the cornerstone of the entire Argentine legal system, is honoured in all branches of the law and is reflected more or less explicitly in the various areas that have been discussed in the course of this report. For example, in connection with article 11 of the Convention we examined legal equality in access to employment; with article 12, the entire question of access to medical care; with article 10, access to education; and so on.

In the discussion of this article we shall refer specifically to the legal capacity of women in civil matters, deferring until our discussion of article 16 of the Convention all those aspects that have to do with marriage and family law in general, with the exception (taken up under this article) of the legal system governing the goods that constitute the marital estate.

Civil rights. Law No. 11,357 "On the Civil Rights of Women", approved in 1926, places our country among the world's most advanced nations in this area. That law ensures women who have reached their majority, whether single, widowed or divorced, legal equality with men, and authorizes the married woman to "engage in an honest profession, occupation, trade or industry, with the right to administer and dispose freely of the income derived from these occupations. For none of this shall she require the authorization of her husband".

In 1957, the Argentine Government ratified the Bogotá Inter-American Convention, signed in 1948, which lays down the principle of civil legal equality between men and women, a principle which in this way became a part of our national legislation.

By virtue of this principle, and of the many provisions of internal law that reassert it, any contract or private instrument that limits a woman's legal capacity is null and void.

Civil capacity. The year 1986 saw the enactment of Law No. 17,711, which introduced fundamental reforms to the Civil Code, establishing the general rule of civil legal capacity for women. A woman who has reached her majority has full civil capacity, whatever her civil status (single, widowed or divorced). A minor married woman is subject to the rules governing minors (Law No. 17,710), with emancipation in both cases following on marriage. There are no differences in treatment for reasons of sex.

What this means is that, although legal equality generally exists between women and men, there still remains to be considered the situation of the married woman, for it is in her case that, in the past, a supposed need to protect the family gave rise to a series of discriminatory practices against women that are currently in the process of being gradually overcome.

Administration by the woman of her property. The protection of family property has merited special consideration in Law No. 17,711, which introduced special requirements regarding the disposition of property that may affect the spouse or the minor or legally incompetent children.

The legal system adopted for the administration and disposition of the property making up the marital estate is that of a separation of property coupled with a sharing in the goods acquired during the marriage. In this way, the law combines the equality and independence of both spouses with the sharing by each of them, in the event the marriage is dissolved, in the property acquired by the other during the marriage as the result of his or her labour. The marital estate consists of the spouses' own property, namely that acquired before or after the marriage through inheritance, donation or bequest (article 1363 of the Civil Code), and of the acquired property, namely that which each of the spouses, or both of them, acquired during the marriage in any manner other than inheritance, donation or bequest (article 1272 of the Civil Code).

Sharing within the marital union begins from the moment the marriage takes place, and no stipulation may be made to the effect that it is to begin at either an earlier or a later point (article 1261 of the Civil Code).

The administration of the property is the right of each of the spouses, independently of the other, whether it be his or her own property or the property acquired during the marriage.

The same principle applies to the disposition or sale of the property, whence the importance of ensuring that its origin is carefully noted. Accordingly, the ownership of a good acquires fundamental importance and must be made perfectly clear at the time the good is acquired.

This principle admits of an exception in favour of the family unit, and that is that the consent of both spouses is required for the disposal or encumbrance of property acquired during the marriage, when this involves real estate, rights or personal property subject to mandatory registration, the transfer of the ownership or use of such property to a company, and the transformation or fusion of a partnership (article 1277 of the Civil Code).

This protection further extends to the premises owned by one of the spouses if these premises happen to be the site of the conjugal home and in the event that there are minor children or children lacking legal capacity. The consent of the other spouse is required in this case even after the marriage has been dissolved in the interest of the disrupted family union.

It should be noted that if it is not possible to determine the origin of the property belonging to a marriage or if the proof is of a doubtful nature, the right to administer and dispose of this property belongs to the husband except in situations involving property subject to registration, the transfer of the ownership or use of the property to a company and, in the case of partnerships, their transformation or fusion, in all of which situations the wife's consent is required (articles 1276 and 1277 of the Civil Code).

Women under Argentine penal law. In the criminal area, it is more a question of factual discriminatory situations than of discrimination in the law itself.

The general provisions of the Penal Code (Law No. 23,077) are the same for men and women.

Nevertheless, the following differences may be noted:

- Women, like minors, serve their sentences at special establishments.

- Provided the convicted woman's sentence is for not more than six months of imprisonment and provided also that she is regarded as "virtuous", a woman may be confined to her own home. The term "virtuous" is used here in a sexual moral sense and thus has the effect of establishing two categories of women.

- In the majority of cases, the victims of offences against sexual liberty (article 72) are women. Because of the way these actions transpire, it is often impossible to investigate instances of illicit sexual conduct and punish those responsible.

- Offences involving women as the active agent - infanticide, abortion, abandonment with attentuating circumstances, simulation of birth - are dealt with less severely than similar cases under general conditions.

In the case of abortion (article 88), the attempted interruption of pregnancy by a woman is not punishable, this also being true of abortions for therapeutic purposes and an abortion performed to end a pregnancy resulting from rape.

In the case of an abortion followed by the death of the woman, a distinction is made according to whether or not the woman had consented to it, with the case of non-consent punished more severely. Here, one is obviously dealing with an unwanted consequence of the act of abortion, but the punishment is harsh in light of the legal goods affected: the life of the woman and the life expectancy of the foetus.

The importance attributed to maternity explains why the law regards as an aggravation of this offence, and punishes accordingly, an injury resulting in the inability to conceive and, in the case of men, to impregnate.

In the case of carnal knowledge through seduction, the law accords greater protection to the minor whose seducer has taken advantage of her inexperience, than to the adult woman. The age limits for this crime vary from one legal system to another. Under Argentine legislation, the offence occurs when the female is over 12 and under 15 years of age.

Injuries inflicted by a husband on his wife. This offence is covered under article 92 of the Penal Code, which punishes personal injury, providing for a harsher penalty for this offence if, inter alia, both parties are related. This is today, unfortunately, a very common occurrence in certain sectors of our society.

Rape. Although this is a crime of which the victim may be either a man or a woman, in actual practice the injured parties are overwhelmingly women and minors. Unfortunately, however, no aggravated circumstance is regarded as existing when the victim of the rape is a woman (article 119 of the Penal Code).

Adultery. For a wife to be guilty of adultery, it is sufficient that she have had a single sexual relationship with a man other than her husband, whereas, in the case of the man, the same offence is regarded as occurring only if he is maintaining a "manceba" (concubine), i.e., if he is involved in a permanent sexual relationship with another woman.

This obvious instance of discrimination is a reflection of the perpetuation in our legal system of outdated stereotypes which, if they were not justified in the past, are certainly even less so today.

Finally, with respect to the rules of legal proceedings, the equality of women and men is total at all stages in proceedings before national and provincial courts. The same principle of equality applies to the circulation of persons both within and outside the country. In this connection, article 14 of the National Constitution confers on all inhabitants of the nation the right to "enter into, remain within, transit through and depart from Argentine territory".

The situation is different with regard to the question of the married woman's freedom to select her place of residence, since, in accordance with current Argentine law, the husband is entitled to establish the conjugal domicile. An exemption from this principle is possible only when the place so chosen poses a danger to the life of the wife (article 53 of Law No. 2,393 on Civil Marriage). The wife is required to follow her husband to whatever place he selects as their residence, and must be able, in cases in which she perceives a danger to her life, to prove this to the satisfaction of the court under penalty of being liable to divorce on the grounds of "voluntary and malicious abandonment" (article 53 of the Law on Civil Marriage).

Article 16 of the Convention. In all matters having to do with the right to choose a spouse and to enter into marriage (paragraphs (a) and (b)), Argentine legislation recognizes no distinction between women and men, since the consent of both parties is required if they are of age, and of both sets of parents or of the parties' legal guardians or of the judge if they are minors. In other words, in all situations the principle is that of the consent or free choice of the parties to the marriage.

With respect to rights and responsibilities during marriage and after its dissolution (paragraph (c)), this point has already been examined in all of its legal aspects, except as it refers to the status of the man and woman as parents (paragraph (d)), an area in which until very recently there was genuine discrimination in favour of the husband.

In fact, prior to the enactment of Law No. 23,264, approved on 25 September 1985, while both parents were vested with authority over their minor non-emancipated children, the exercise of this authority was the prerogative of the father, except when this right had been forfeited as a result of a court order or lost through the incapacity of the father or his death, in which case the exercise of authority became the responsibility of the mother.

This law provides for the joint exercise of parental authority, whenever both parents are neither separated nor divorced. It is presumed in this case that the actions performed by either one of them enjoy the consent of the other, except where there is express opposition.

The express consent of both parents is required in the following cases:

(1) When authorizing a child to enter into marriage;

(2) When conferring legal capacity on a child;

(3) When authorizing a child to join a religious community, the armed forces or the security forces;

(4) When authorizing a child to leave the Republic;

(5) When authorizing a child to appear in court;

(6) When disposing of the children's real estate and rights or registrable moveables which they are administering with the permission of the court;

(7) When engaging in the administration of the children's property, except when one of the parents has delegated the right of administration to the other.

In the case of de facto separation, divorce or annulment of the marriage, the exercise of parental authority is the responsibility of the father or mother, depending on which of the two has been legally awarded the custody of the children, but without prejudice to the right of the other spouse to maintain adequate communication with the children and to supervise their education. In any event, however, the express authorization of both parents is required in the seven cases enumerated above.

With regard to paragraphs (e) and (f) of article 16 of the Convention, men and women enjoy the same rights; however, because of the non-existence of an adequate system of comprehensive family planning the less educated segments of society lack sufficient guidance and counselling to decide freely on the number and spacing of their children.

In our discussion of article 15 of the Convention, we referred to the equality of rights between the spouses in respect of the ownership, acquisition, management, administration and disposition of property, and also to the fact that husband and wife enjoyed the same personal rights in respect of the selection of a profession and occupation (article 16, paragraphs (g) and (f)).

Nevertheless, regarding the name to be assumed by a married woman, Law No. 18,248, which has been in effect since 1969, requires that a married woman take the name of her husband preceded by the preposition "de" ["of"], a vestige of the time when the wife was regarded as an integral part of her husband's property. This requirement ceases when the woman is divorced or widowed. It also does not apply when, prior to her marriage, the woman was well known in commercial, industrial or professional circles under her own family name, in which case she may continue using it after marriage.

Regarding paragraph 2 of this article, it should be noted that the Argentine legal system prohibits betrothals and requires as the minimum age for entering marriage 21 years for both sexes, subject to the single condition of free consent. Article 14 of Law No. 14,394 stipulates as the minimum age for entering marriage 14 years for girls and 16 for boys (minors) with the requirement of the consent of the parents or, as the case may be, the permission of the court (e.g., in the event of a refusal by the parents in cases involving a pregnancy on the part of a minor girl who wishes to marry the father of her unborn child, and in the event of the presumption of pregnancy in the situation contemplated in article 132 of the Penal Code, where the judge hearing the case may decide to grant permission even before

the girl has reached the minimum age required for marriage). Similarly, the judge may authorize a marriage in cases in which the parents have refused to grant their permission and the minors wishing to marry have taken the matter to the courts.

Finally, under Argentine legislation civil marriage alone is legally valid and recognized as such. In addition, the marriage must be properly recorded at the Civil Registry Office.

It is important to emphasize that the idea of conjugal coparticipation permeates all the proposed modifications currently under study. Coparticipation in the management of the household is regarded as a necessary condition for bringing about a de facto elimination of discrimination against women and achieving genuine equality. This greater equality between the sexes must be reflected in a more equitable distribution of family tasks.

The underlying premise in the modifications to discriminatory provisions and the changes in other practices involving indirect discrimination that are currently being formulated is the principle that both spouses must share the same rights and the same responsibilities in marriage.

Thus, for example, with respect to the conjugal domicile, it is proposed that article 53 of Law No. 2,393 should be replaced by a provision establishing that both spouses are to be jointly responsible for the management of family life and to select by common agreement their place of residence. In the event they are unable to agree, the decision will lie with the judge.

On the question of the married woman's name, it is proposed that articles 8, 2 and 4 of Law No. 19,248 should be modified so as to permit the woman to retain her maiden name, with the option of adding her husband's name to her own. Regarding the name of the children, the latter are to make their selection by joint agreement and to bear the name of the father and mother.

With respect to the administration of property, it is proposed to confer on both spouses the right of administering and disposing of property of doubtful origin acquired during the marriage.

Similarly, other questions involved in the de facto inequality of the husband and wife on the breakup of a marriage are being studied. It is regarded as essential that there should be adequate regulation of the right to support in order to alleviate the increased burden to which the wife becomes subject when a marriage is dissolved and which may be reflected in unhealthy stress because of the excessive demands of her role within the household or in anxiety because of her inability to support her family.

In addition, the current legal provisions designed to ensure that the father meet his obligations in respect of spousal support are regarded as inadequate and ineffective. On this point, it is considered necessary to develop a coherent family policy aimed at creating a sense of responsible fatherhood. Measures must be taken to affect the social, educational and legal conditions guaranteeing compliance with spousal support obligations.

In this connection, in June of the current year the executive authorities presented to the Congress a draft law intended to replace Law No. 21,180, which called for the establishment of family courts in the Federal Capital and which it was never possible to implement for the reason that, in addition to being unnecessarily onerous, it contemplated a system poorly geared to the conditions under which the courts operate in that district.

ANNEXES

I.* Three pamphlets on the "Women, Health and Development Programme" (The rights of the working woman; Mothers and nursing; The rights of women and their families under social security).

II.* Pamphlet on the National Food Plan (PAN).

III.* National Literacy Training Plan.
National Commission on Functional Literacy Training and Permanent Education.
Ministry of Education and Justice.

IV. Tables I and II on electoral candidates broken down according to sex.

V.* (a) Document on Community Sport issued by the Department of Sport.

(b) Four documents on educational statistics released by the Ministry of Education and Justice.

(c) Pamphlet entitled "Educational Policy on the March" issued by the Ministry of Education and Justice.

VI.* (a) Opening address at the Pedagogical Congress, delivered by the President of the Nation.

(b) What is the Pedagogical Congress? Documentation for participants.

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*/ The documents listed as annexes I, II, III, V and VI are available in Spanish at the Centre for Social Development and Humanitarian Affairs of the United Nations Secretariat in Vienna, where they may be requested from the Advancement of Women Branch.

ANNEX IV

Table 1

Electoral candidates in the Federal Capital according to sex
1983 elections - percentage of males

	1 President Vice President	2 Senators	3 Regular deputies	4 Alternate deputies	5 Regular councilmen	6 Alternate, councilmen	Total	1+2+3
Unión Cívica Radical (UCR)	100	100	88.0	80.0	93.3	90.0	90.8	89.6
Partido Justicialista (PJ)	100	100	80.0	62.5	86.6	70.0	82.2	82.7
Partido Democrático Cristiano	100	100	88.0	100	72.4	33.3	76.1	89.6
Partido Intransigente (PI)	100	50	80.0	100	85.0	71.4	83.9	79.3
Alianza Federal	100	100	88.0	70.0	68.3	60.0	73.3	89.6
Movimiento de Integración y Desarrollo (MID)	100	50	92.0	37.5	85.0	60.0	81.3	89.6
Partido Obrero (PO)	50	100	72.0	80.0	68.3	-	70.7	72.4
Movimiento Argentino al Socialismo (MAS)	50	100	80.0	70.0	63.3	70.0	88.8	79.3
Partido Socialista Democrático	100	100	91.6	90.0	83.3	70.0	85.1	92.8
Partido Socialista Popular	100	50	76.0	60.0	-	-	71.7	75.8
Partido Comunista (PC)	-	-	88.0	80.0	86.6	30.0	80.9	88.0
FIP	50	50	60.0	50.0	-	-	69.2	75.8
Unión de Centro Democrático (UCD)	100	100	78.0	71.4	75.0	50.0	73.5	79.3

Table 2

Electoral candidates in the Federal Capital according to sex
1985 elections - percentage of males

	1 Regular deputies	2 Alternate deputies	3 Regular councilmen	4 Alternate councilmen	Total	1 + 3
Unión Cívica Radical (UCR)	83.3	75.0	93.3	90.0	88.3	90.4
Partido Justicialista (PJ)	91.6	57.1	93.3	66.6	85.4	92.8
Partido Democrático Cristiano	69.2	-	93.3	-	86.0	86.0
Partido Intransigente (PI)	92.3	87.5	93.3	73.3	87.8	93.0
Partido Federalista	84.6	62.5	50.0	20.0	54.0	60.4
Partido Democrático Progresista	92.3	75.0	80.0	28.5	75.8	83.7
Linea Popular Partido	92.3	75.0	86.6	60.0	84.6	88.3
Obrero (PO)	84.6	87.5	60.0	60.0	68.8	67.4
Part. Gen. Int.	80.0	-	43.7	-	50.0	50.0
Partido Humanista	46.1	100.0	70.0	40.0	63.9	62.7
Frente de Liberación	84.6	50.0	70.0	70.0	70.4	74.4
Unidad Socialista	69.2	50.0	80.0	50.0	68.8	76.7
Unión de Centro Democrático (UCD)	92.3	85.7	83.3	85.7	85.9	86.0
Frente del Pueblo (FREPU)	100.0	75.0	86.6	90.0	88.5	90.6